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Attorneys for Plaintiffs

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 ALEX ANG and LYNNE STREIT,
individually and on behalf of all others
14 similarly situated,

Plaintiffs,

15 v.

16 BIMBO BAKERIES USA, INC.,

17 Defendant.

Case No. 13 Civ. 1196 (WHO) (NC)

**DECLARATION OF JAY NELKIN IN
SUPPORT OF APPLICATION FOR
ADMISSION PRO HAC VICE [DKT. NO. 96]**

Judge: Hon. William H. Orrick

1 JAY NELKIN, hereby declares, pursuant to 28 U.S.C. § 1746, as follows:

2 1. I am a member of the law firm of Nelkin & Nelkin, P. C. and am a member in
3 good standing of the State Bar of New York. I am also admitted to practice before the United
4 States District Court for the Southern District of Texas, the Eastern and Southern Districts of New
5 York, and the United States Courts of Appeal for the Second, Fifth and Federal Circuits. I have
6 personal knowledge of the information set forth herein. I make this declaration in support of my
7 Application for Admission Pro Hac Vice and in response to Defendant's Motion in Opposition to
8 that motion.

9 2. I am a resident of Englewood, New Jersey and do not reside in California. Neither
10 I nor my law firm maintain an office in California. I have never taken or attended a deposition in
11 connection with any California case. I have never physically appeared in person in a California
12 court room. I have never met a client in California in the last 3 years. In fact, I have not
13 physically entered California in the past 3 years other than a single isolated instance when I
14 caught a connecting flight at the Los Angeles Airport during which time I did not leave the
15 airport.

16 3. I was not the sole or primary counsel and never filed an appearance or applied to
17 appear *pro hac vice* in *Jones v. ConAgra Foods, Inc.*, (3:12-cv-01633-CRB); *Bankamerica Corp.*
18 *v. Bank of New York, et al* (3:96-cv-03684-SC); *Kosta v. Del Monte Corporation*, (4:12-cv-
19 01722-YGR); *Maxwell v. Unilever United States, Inc. et al*, (5:12-cv-01736-EJD); *Avoy v.*
20 *Sunsweet Growers, Inc.*, (5:12-cv-01769-RMW); *Ogden v. Bumble Bee Foods, LLC*, (5:12-cv-
21 01828-LHK); *Brazil v. Dole Food Company, Inc. et al*, (5:12-cv-01831-LHK); *Gustavson v.*
22 *Wrigley Sales Company et al*, (5:12-cv-01861-LHK); *Khasin v. The Hershey Company*, (5:12-cv-
23 01862-EJD); *Samet v. Proctor and Gamble Company*, (5:12-cv-01891-PSG); *United States of*
24 *America et al v. Coca-Cola Company* (3:13-cv-02551-JCS) and *Trazo v. Nestle USA, Inc. et al*,
25 (5:12-cv-02272-PSG). To the extent my name was on listed on any pleadings it was as part of a
26 group listing of attorneys and firms in which other firms and lawyers besides me were responsible
27 for representing the clients. Such listing did not reflect my "appearance" in the case but was
28 merely to reflect that I was providing supporting services to the in-state attorney and any other

1 attorneys admitted in the case. With the exception of *United States of America et al v. Coca-Cola*
2 *Company* (3:13-cv-02551-JCS), I never met, spoke with or communicated with the clients in
3 these cases nor did I have any contact with opposing counsel in any of these cases. I never met,
4 spoke with or communicated with opposing counsel in *United States of America et al v. Coca-*
5 *Cola Company* (3:13-cv-02551-JCS) and only met the client in that case outside of California
6 after it was dismissed.

7 4. My role in *Bankamerica Corp. v. Bank of New York, et al*, (3:96-cv-03684-SC)
8 was limited and terminated nearly 18 years ago in 1997 when I was an associate at Sullivan &
9 Cromwell. The *Lazaroff v. Ferrellgas, L.P. et al.*, (2:09-cv-04274-PSG-SS) and *Yunis et al v.*
10 *Ferrellgas, L.P. et al.*, (3:09-cv-03093-THE) cases were transferred out of California in 2009.

11 5. In the last 3 years I have not argued before a Court in any California case or filed
12 an appearance form. Except for this case, I have not filed an application to be admitted *pro hac*
13 *vice* in any case in California. In the last 3 years I have always filtered my work in any case filed
14 in California through an in-state attorney. Over the past 3 years, my activities in connection with
15 any California cases have been limited to activities conducted outside the borders of California
16 such as reviewing pleadings, researching relevant law, and advising co-counsel.

17 6. I sought *pro hac vice* status in this case out of an abundance of caution to ensure
18 that I, although working outside of California, could review and assess the voluminous
19 documents produced in this case by Defendant pursuant to a protective Order.

20 7. I filed an application to appear *pro hac vice* in this case on January 8, 2015,
21 indicating that I agreed to abide by the rules of this Court. Ben F. Pierce Gore, a member of the
22 Bar of this Court, was designated as my co-counsel in my *pro hac vice* application. I meet all the
23 criteria for *pro hac vice* admission identified by this Court in *Santiago v. Equable Ascent Fin.*,
24 2013 U.S. Dist. LEXIS 97762 at *13 n.3. (N.D. Cal. July 12, 2013).

25 8. As indicated above, I do not reside in the State of California. I have not officially
26 registered to take the California State Bar exam and I am not awaiting the results from the
27 California State Bar exam. I have not regularly engaged in the practice of law in California in
28 the last 3 years. I did not sign briefs, did not argue cases, and always filtered any work in

1 California through an in-state attorney.

2 9. In each of the five cases listed in *Guguni v. Chertoff*, 2008 WL 2080788 (N. D.
3 Cal May 14, 2008) where the court indicated the attorney had “appeared,” the attorney had filed
4 an application to appear pro hac vice and, in fact, was the sole attorney representing the Plaintiff.

5 I declare under penalty of perjury under the laws of the United States of America that the
6 foregoing is true and correct

7 Dated: January 13, 2015

8 /s/ Jay P. Nelkin
9 JAY P. NELKIN
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